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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,621	03/08/2001	Jan Gerben Wijnstra	NL000122	8300

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EXAMINER

PATEL, HARESH N

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 07/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/801,621

Applicant(s)

WIJNSTRA, JAN GERBEN

Examiner

Haresh Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-7 are presented for examination.

Response to Arguments

2. Applicant's arguments filed 4/15/2005 have been fully considered but they are not persuasive. Therefore, rejection of claims 1-7 is maintained.

Applicant argues (1), "cited reference McDervitt, U. S. Publication 2003/0186228 (Hereinafter McDervitt) fails to disclose the limitations, "the software program comprising a skeleton software architecture of generic and specific requirements, wherein said generic requirements focuses on generic meaning of service interfaces and said specific requirements provides for service specific issues", and "neither McDervitt nor Skeen, 5,257,369 nor Java 2 Platform, Enterprise edition, J2EE, Sun Microsystems, 12/17/1999. (Hereinafter Shannon-Sun) teach or suggest all elements recited in the claims". The examiner respectfully disagrees in response to applicant's arguments. The claims 1, 2, 6 and 7 are rejected by combined teachings of McDervitt and Skeen. The claims 3-5 are rejected by combined teachings of McDervitt, Skeen and Shannon-Sun. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). McDervitt discloses managing a family of systems having a shared family architecture (e.g., component-based techniques, and/or object-oriented techniques, col., 43, paragraph 425) based upon commonly used generic blocks of software (e.g., use of ActiveX controls, JavaBeans,

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Microsoft foundation classes, col., 43, paragraph 425) and wherein a component framework that comprises a skeleton of software architecture (e.g., component-based techniques and/or object-oriented techniques, col., 43, paragraph 425) and supports participating software plug-in components (e.g., use of ActiveX controls, JavaBeans, Microsoft foundation classes, col., 43, paragraph 425); individual software plug-in components provides one or more services/functions (e.g., inherent functionality of Javabeans, paragraph 425). Skeen discloses generic and specific requirements (e.g., col., 25, lines 28 - 53, figure 16), wherein said generic requirements focuses on generic meaning of service interfaces and said specific requirements provides provide for specific issues (e.g., col., 25, lines 28 - 53, figure 16). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of the claimed subject matter. For example, limitations, "architecture of generic and specific requirements", is broadly interpreted as one generic requirement (single) and one specific requirement (single); limitations, "said specific requirements provides for", is broadly interpreted as the specific requirement provides "something", "nothing", "anything", or "generic item", since what is provided is not mentioned; limitations, "service specific issues", that is after usage of "for" is not limited to what is not provided. The limitations, "issues" is broadly interpreted as topic, matter or subject. As mentioned above, the limitations are disclosed by combined teachings of McDervitt and Skeen. Therefore, the rejection is maintained.

Applicant argues (2), "Teachings of McDevitt and Skeen are improperly combined, and there is not motivation or suggestion and a reasonable expectation of success". The examiner

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respectfully disagrees in response to applicant's arguments. McDevitt clearly indicates that his invention can utilize known prior techniques and can be modified (e.g., paragraph 626, col., 64). Also, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of a primary reference. It is also not that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. In re Keller, 642 F.2d 414, 425, 208 USPQ 871, 881 (CCPA 1981); In re Young, 927 F.2d 588, 591, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991). The motivation to combine the references is to utilize well-known concept of Skeen's teachings of generic requirements and specific requirements that would help the system to handle interfaces for the services differently. The combined teachings of McDevitt and Skeen accomplish the broadly claimed invention. Therefore, the rejection is maintained.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 6 and 7, are rejected under 35 U.S.C. 102(e) as being anticipated by McDevitt in view of Skeen, as per office action, paper dated 1/13/2005.

5. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDevitt and Skeen in view of Shannon-Sun, as per office action, paper dated 1/13/2005.

Conclusion

6. The prior art made of record (forms PTO-892 and applicant provided IDS cited arts) and not relied upon is considered pertinent to applicant's disclosure. For example, the pertinent cited art, Arunachalam et al., 6,631,122, Nortel Networks Limited, also discloses usage of various classes with specific QoS requirements, Service Level Agreement, and Qos framework.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haresh Patel whose telephone number is (571) 272-3973. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday from 10:00 am to 8:00 pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Haresh Patel

June 30, 2005


JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100